

United States Senate

March 11, 2021

The Honorable Kathleen McGettigan
Acting Director
Office of Personnel Management
1900 E St NW
Washington, D.C. 20415

Dear Acting Director McGettigan:

We write to request a clarification about the eligibility of the National Rifle Association (NRA) Foundation and its related affiliates to participate in the Combined Federal Campaign (CFC). Recent public filings by the NRA and the IRS make clear it is imperative that OPM remove the NRA and its related affiliates from the giving program.

Last September, we wrote to OPM to request that the agency remove the NRA Foundation (CFC #10006) and the NRA Civil Rights Foundation (CFC #11872) from the federal employee charitable giving program because of pending lawsuits by the Attorneys General in New York and the District of Columbia against the National Rifle Association, which controls both entities.¹ Specifically, the District of Columbia civil suit alleges the NRA misused charitable funds of the NRA Foundation to support the NRA and its executives, including extending a risky multi-million-dollar loan from the Foundation to the NRA and payment of fees from the Foundation to the NRA, without any clear evidence such payments furthered the Foundation's charitable mission.² In addition, the New York Attorney General's civil suit raises a number of deeply troubling allegations related to the NRA's abuse of its nonprofit status, including senior executives diverting millions from its tax-exempt mission.³

Despite the serious allegations of fraud and wasteful misuse of charitable donations, the Trump administration's OPM concluded that the NRA Foundation and NRA Civil Rights Foundation still met the criteria for inclusion in the CFC. Specifically, OPM stated that "there has been no finding by a court, the IRS, or any binding jurisdiction that either organization has failed to comply with the law."⁴

¹ <https://www.menendez.senate.gov/newsroom/press/menendez-leads-call-to-prohibit-nra-foundation-from-soliciting-receiving-charitable-donations-from-federal-employees>

² <https://oag.dc.gov/release/ag-racine-sues-nra-foundation-diverting-charitable>

³ <https://ag.ny.gov/press-release/2020/attorney-general-james-files-lawsuit-dissolve-nra>

⁴ Lambert, Mark. Associate Director, OPM. NRA/CFC Response Letter. Addressed to Senator Robert Menendez, 1 Oct. 2020.

Since our September letter, the NRA admitted in its most recent public tax filing that the organization has paid its executives at least \$1.4 million in improper or excessive payments.⁵ These inappropriate payments included a litany of personal expenses dating back several years including personal and family travel, unapproved first class travel, tickets to sporting and entertainment events, and other expenses. The NRA also acknowledged in the filing that the total value of improper or excessive payments is unknown and could be much higher pending the outcome of the New York Attorney General’s lawsuit. The Office of the Attorney General for the District of Columbia has alleged in a lawsuit that the NRA Foundation facilitated much of the NRA’s admitted inappropriate spending through a \$5 million loan from the Foundation.⁶ Additionally, the NRA has filed for Chapter 11 bankruptcy protection and seeks to move its operations to Texas to escape accountability from the New York Attorney General’s lawsuit.⁷ During the bankruptcy proceedings, the IRS filed a proof of claim as a creditor that appears to indicate the NRA owes the IRS over \$1 million in past-due taxes. The IRS’s breakdown of taxes owed is provided below.⁸

Unsecured Priority Claims					
under section 507(a)(8) of the Bankruptcy Code					
<i>Taxpayer ID Number</i>	<i>Kind of Tax</i>	<i>Tax Period</i>	<i>Date Tax Assessed</i>	<i>Tax Due</i>	<i>Interest to Petition Date</i>
XX-XXX6130	CH EXCISE	12/31/2014	1 1-ESTIMATED-SEE NOTE	\$226,267.14	\$62,106.36
XX-XXX6130	WH FED INC	12/31/2014	1 1-ESTIMATED-SEE NOTE	\$6,965.88	\$1,912.03
XX-XXX6130	CH EXCISE	12/31/2015	1 1-ESTIMATED-SEE NOTE	\$226,267.14	\$53,453.01
XX-XXX6130	CH EXCISE	12/31/2016	1 1-ESTIMATED-SEE NOTE	\$226,267.14	\$42,506.54
XX-XXX6130	CH EXCISE	04/18/2017	1 1-ESTIMATED-SEE NOTE	\$226,267.14	\$31,862.24
XX-XXX6130	EXEMPT OR	12/31/2017	1 1-ESTIMATED-SEE NOTE	\$0.00	\$0.00
XX-XXX6130	CH EXCISE	12/31/2018	1 1-ESTIMATED-SEE NOTE	\$226,267.14	\$18,568.73
XX-XXX6130	CORP-INC	12/31/2019	1 1-ESTIMATED-SEE NOTE	\$164,944.00	\$4,462.65
XX-XXX6130	CORP-INC	12/31/2020	1 1-ESTIMATED-SEE NOTE	\$164,944.00	\$0.00
XX-XXX6130	WT-FICA	03/31/2021	1 1-ESTIMATED-SEE NOTE	<u>\$1,732,404.08</u>	<u>\$0.00</u>
				\$3,200,593.66	\$214,871.56
Total Amount of Unsecured Priority Claims:					\$3,415,465.22

Even applying the previous administration’s overly restrictive bar for removal from the program (“finding by a court, the IRS, or any binding jurisdiction that either organization has failed to comply with the law....”), the NRA’s admission that several of its officers engaged in a years-long campaign of wrongdoing makes clear that charitable foundations controlled by the NRA should not be allowed to remain in the CFC.

⁵ <https://www.wsj.com/articles/nra-acknowledges-improper-executive-benefits-in-new-tax-filing-11606341481>

⁶ <https://oag.dc.gov/release/ag-racine-sues-nra-foundation-diverting-charitable>

⁷ <https://www.bloomberg.com/news/articles/2021-02-12/n-y-ag-asks-judge-to-dismiss-nra-bankruptcy>

⁸ Claim of the Internal Revenue Service Submitted to the Bankruptcy Court, Northern District of Texas, February 9, 2021, Creditor # 19335108, Case No. 21-30085-hdh11 (National Rifle Association of America).

Given the NRA's admitted years-long financial misconduct and newly revealed tax debt, we ask that you examine this matter to determine whether the organization and its related affiliates still meet the standard for inclusion in the CFC. Thank you in advance for your consideration.

Sincerely,

/s/ Robert Menendez
Robert Menendez
United States Senator

/s/ Edward J. Markey
Edward J. Markey
United States Senator

/s/ Ron Wyden
Ron Wyden
United States Senator

/s/ Richard Blumenthal
Richard Blumenthal
United States Senator

/s/ Kirsten Gillibrand
Kirsten Gillibrand
United States Senator

/s/ Cory A. Booker
Cory A. Booker
United States Senator

/s/ Mazie K. Hirono
Mazie K. Hirono
United States Senator

/s/ Chris Van Hollen
Chris Van Hollen
United States Senator

/s/ Elizabeth Warren
Elizabeth Warren
United States Senator